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14 UNITED STATES DISTRICT COURT
15 CENTRAL DISTRICT OF CALIFORNIA
16 SOUTHERN DIVISION

17 TP-LINK USA CORPORATION,
18 Plaintiff,

19 v.

20 CAREFUL SHOPPER, LLC, ADAM
21 STARKE, SORA STARKE, and DOES
22 1 through 10, inclusive,
23 Defendants.

24 CAREFUL SHOPPER, LLC,
25 Counterclaimant-
26 Third-Party Plaintiff,

27 v.

28 TP-LINK USA NORTH AMERICA
INC. and AUCTION BROTHERS, INC.
dba AMAZZIA,
Third-Party Defendants.

CASE NO.: 8:19-CV-00082-JLS-KES

Hon. Josephine L. Staton

**JOINT STIPULATION FOR ORDER
PERMITTING AMENDMENT OF
CAREFUL SHOPPER'S BRIEF IN
OPPOSITION TO TP-LINK'S
MOTION TO STRIKE AND/OR
DISMISS**

Hearing Date: March 13, 2020
Hearing Time: 10:30 a.m.
Courtroom: 10A

Complaint Filed: Jan. 15, 2019

Answer, Counterclaims and Third-Party
Complaint Filed: Nov. 12, 2019

Amended Answer, Counterclaims and
Third-Party Complaint Filed: Jan. 3,
2020

No. 8:19-CV-00082-JLS-KES

1 Plaintiff TP-Link USA Corporation (“TP-Link USA”) and Third-Party
2 Defendant TP-Link North America, Inc. (“TP-Link NA”) (together, “TP-Link”) and
3 Careful Shopper, LLC (“CSC”) (collectively, the “Parties”), by and through their
4 respective undersigned counsel, and subject to this Court’s approval, stipulate and
5 agree as follows:

6 WHEREAS, on January 3, 2020, (1) CSC, Adam J. Starke and Sora Starke filed
7 an Amended Answer to the Complaint; (2) CSC filed Amended Counterclaims against
8 TP-Link USA; and (3) CSC filed an Amended Third-Party Complaint against TP-Link
9 NA and Amazzia (ECF No. 54);

10 WHEREAS, on January 17, 2020, TP-Link filed a Motion to Strike and/or
11 Dismiss CSC’s Amended Counterclaims and Third-Party Complaint (ECF No. 62)
12 (“TP-Link Motion”);

13 WHEREAS, the Court has heretofore afforded Careful Shopper an additional
14 three (3) pages of briefing upon parties’ stipulation (ECF No. 69);

15 WHEREAS, Careful Shopper’s Opposition to TP-Link’s Motion to Strike and/or
16 Dismiss CSC’s Amended Counterclaims and Third-Party Complaint was due on or
17 before February 7, 2020 but filed January 30, 2020; and

18 WHEREAS Careful Shopper has, since January 30, 2020 identified two
19 unreported Rule 12(b)(6) rulings that it wishes to include in its opposition brief;

20 WHEREAS Careful Shopper seeks to amend its opposition to TP-Link’s motion
21 for purposes of citing and providing unreported materials related to the decisions at
22 issue; and

23 WHEREAS, the parties state the following:

24 **Careful Shopper’s Good Cause Statement**

25 Good cause exists for the requested amendment to ECF No. 70 because:

26 Careful Shopper has searched all reported databases repeatedly, using a
27 multitude of keywords and concepts, to zero in on the most current authorities that,
28

1 hopefully, can assist the Court in rendering its decision on dispositive matters in
2 process. Despite such efforts Careful Shopper found no reported cases ruling on the
3 sufficiency of the state law claims similar to those pending in this case. Subsequent
4 to January 30, 2020, while researching discovery-related issues, undersigned located
5 unreported-untranscribed cases in two Districts that Careful Shopper believes are
6 relevant.

7 Careful Shopper is aware that the submission of unreported, unpublished
8 rulings has generated a significant amount of discussion over the years. FRAP
9 32.1 provides that "[a] court may not prohibit or restrict the citation of federal judicial
10 opinions, orders, judgments, or other written dispositions that have been (i)
11 designated as 'unpublished,' 'not for publication,' 'non-precedential,' 'not precedent,' or
12 the like; and (ii) issued on or after January 1, 2007." *Inland Concrete Enters. v.*
13 *Kraft*, 318 F.R.D. 383, 406 (C.D. Cal. 2016). This Court's "Local Civil Rule 11-3.9,
14 Citations, does not purport to restrict the right of judges or parties to cite unpublished
15 decisions." *Id.* LR 11-3.9 appears to welcome any Federal decision when it requires a
16 specified citation regimen "if available."

17 Our view of the two transcripts proposed for submission is that a transcript of
18 a bench ruling cited on the docket sheet is a "written disposition" for purposes of
19 FRAP 32.1. We also believe that the rulings are of interest in addressing the precise
20 circumstances at bar vis-à-vis their legal sufficiency.

21 **TP-Link's Statement**

22 TP-Link, stipulates to the requested relief as a courtesy and takes no position
23 on Careful Shopper's good cause statement. It will address the cited authorities in its
24 reply brief.

25 NOW THEREFORE, the Parties, by and through their respective counsel,
26 hereby STIPULATE AND AGREE as follows:

27 CSC may be permitted, subject to Court approval, to amend its Opposition (ECF
28

No. 70) to cite the two at-issue cases and provide the transcribed rulings therein, but shall not include any additional argument; and

The page limits previously ordered remain in effect, save and except the presentation of supplemental material contemplated hereby.

Dated: February 7, 2020

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